

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JANE DOE 1, individually, and on behalf of all others similarly situated, JANE DOE 2, individually and on behalf of all others similarly situated, JANE DOE 3, individually and on behalf of all others similarly situated, JANE DOE 4, individually and on behalf of all others similarly situated and JANE DOE 5, individually and on behalf of all others similarly situated,

Plaintiffs,

vs.

GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS, FIRST LADY CECILE DE JONGH, GOVERNOR KENNETH MAPP, SENATOR CELESTINO WHITE, ATTORNEY GENERAL VINCENT FRAZER, GOVERNOR JOHN DE JONGH, SENATOR CARLTON DOWE, DELEGATE STACEY PLASKETT, and JOHN DOES 1-100,

Defendants.

No.: 1:23-cv-10301-AS

**DEFENDANT GOV.  
JOHN DE JONGH JR.'S  
NOTICE OF MOTION  
TO DISMISS,  
TRANSFER, STRIKE**

—X

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law in Support of Defendant John de Jongh Jr.'s ("Mr. de Jongh") Motion to Dismiss/Transfer/Strike, the Affirmation of Daniel L. Cevallos, Esq., in Support of Plaintiff's Motion to Dismiss/Transfer/Strike, the Affidavit of Defendant John de Jongh, Jr., the proposed Order, and the exhibits A-C thereto, Mr. de Jongh will move this Court, before the Honorable Arun Subramanian, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, at a date and time to be determined by the Court, for an order **dismissing, transferring, and/or striking** the Individual and Class Action Amended Complaint and Demand for Jury Trial ("FAC") filed 12/13/2023 at ECF #7, pursuant to:

*First*..... Fed.R.Civ.P. 12(b)(1) to **dismiss** the FAC for failure to plead, and lack of subject matter jurisdiction, Article III standing, and failure to plead causation;

*Second.* ..... Fed.R.Civ.P. 12(b)(2) to **dismiss** the FAC for lack of personal jurisdiction over defendant Mr. de Jongh;

*Third.* ..... Fed.R.Civ.P. 12(b)(3), 28 U.S.C. § 1406 to **dismiss** the FAC for improper/wrong venue, and failure to plead venue;

*Fourth.* ..... Fed.R.Civ.P. 12(b)(3), 28 U.S.C. § 1406, if not dismissed for improper/wrong venue, to **transfer** the case to the District Court of the Virgin Islands, St. Thomas/St. John Vicinage, for improper/wrong venue, failure to plead venue;

*Fifth.* ..... Fed.R.Civ.P. 12(b)(3), 28 U.S.C. § 1404 (only if the Court deems venue proper) to **transfer** the case to the District Court of the Virgin Islands, St. Thomas/St. John Vicinage, for convenience / in the interests of justice;

*Sixth.* ..... Fed.R.Civ.P. 12(b)(6) and 8, to **dismiss** the FAC for failure to state a claim as to all Causes of Action (“COAs”), including, but not limited to:

- The FAC group-pleads, and fails to identify specific conduct involving Mr. de Jongh, as well as other Defendants, and Plaintiffs, as opposed to other unnamed nonparties;
- The FAC fails to plead continuing conduct or a conspiracy sufficient to toll or extend the statute of limitations;
- The FAC is untimely; the statute of limitations has expired;
- The FAC’s 1st, 2nd, 3rd COAs must be dismissed as to allegations that occurred before the TVPRA created a private right of action;
- The FAC’s 1st, 2nd, 3rd COAs fail to allege knowledge of a specific venture by Mr. de Jongh;
- The FAC’s 2nd COA must be dismissed because there is no “Aiding and Abetting” Liability under § 1595;

- The FAC’s 3rd COA must be dismissed because there is no individual COA for civil conspiracy in New York;
- The FAC fails to plead negligence by Mr. de Jongh;
- The FAC fails to plead specific dates of conduct during which Mr. de Jongh was Governor;
- The USVI Government, including the Governor, are immune;
- The FAC fails to plead a COA for failure by law enforcement to prevent crime;
- USVI law applies, as the locus of the tort, therefore there is no comparable Adult Survivor’s Act lookback window;

*Seventh.* ..... Fed.R.Civ.P. 12(b)(7), 19, to **dismiss** the FAC for failure to join an indispensable party;

*Eighth.* ..... Fed.R.Civ.P. 8, and 12(f), to **strike** immaterial, impertinent, and scandalous allegations of arrest and loans, including Paragraph 77 of the FAC;

*Ninth.* ..... New York and/or Virgin Islands statutes of limitations, to **dismiss** the FAC on any of the above grounds with prejudice, because the ASA’s one-year “lookback” window expired on 11/24/2023 and any re-filed Complaint would be out of time;

*Tenth.* ..... Fed.R.Civ.P. 8, for failure to meet minimal pleading requirements;

*Eleventh.* ..... Fed.R.Civ.P. 1, to secure the just, speedy, and inexpensive determination of every action and proceeding;


*Twelfth.* ..... This Court’s inherent authority, and

*Thirteenth.* ..... For such other and further relief as this Honorable Court deems necessary and just.

PLEASE TAKE NOTICE that, Pursuant to Local Civil Rule 6.1(b)(2-3), opposing affidavits and answering memoranda must be served within fourteen days after service of the moving papers, and any reply affidavits and memoranda of law shall be served within seven days after service of the answering papers.

Dated: *January 21, 2024*  
New York, New York



  
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Admitted Pro Hac Vice [ECF #21]

*Attorneys for Governor John de Jongh, Jr.*

**AFFIRMATION OF SERVICE**

I, Daniel L. Cevallos, Esq., declare under penalty of perjury that on the below date, I served a copy of the attached: (1) Notice of Motion; (2) Affirmation of Attorney Daniel Cevallos; (3) Affidavit of defendant John de Jongh, Jr.; (4) Memorandum of Law; (5) proposed Order; and (6) Exhibits, including required non-argumentative charts; by e-filing the same on the SDNY's CM-ECF system, which will send a notice of electronic filing (NEF) to all parties who have appeared:

Annette Hasapidis, Esq.  
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*Attorneys for the Plaintiffs*

Dated: *January 21, 2024*  
New York, New York



  
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Daniel L. Cevallos, Esq.

**AFFIRMATION OF COMPLIANCE WITH PAGE LIMITS/FORMATting**

The undersigned hereby confirms that the attached Memorandum of Law complies with Judge Subramanian's Individual Practices in Civil Cases, Rule 8(C) (20 pages, excluding tables, captions, and signature lines) and Local Civil Rule 11.1.

Dated: *January 21, 2024*  
New York, New York



  
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Daniel L. Cevallos, Esq.

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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Defendants.

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**DEFENDANT JOHN DE JONGH JR.'S NOTICE OF  
MOTION TO DISMISS, TRANSFER, STRIKE;**

**AFFIRMATION OF SERVICE**

**AFFIRMATION OF COMPLIANCE WITH PAGE  
LIMITS**

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